IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

MONDAY, THE 20TH AUGUST 2007 / 29TH SRAVANA 1929

Crl.Rev.Pet.No. 2744 of 2007()

CRA.316/2004 of ADDL.SESSIONS COURT, PATHANAMTHITTA
CC.621/1999 of JUDL.MAGISTRATE OF FIRST CLASS COURT, THIRUVALLA

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REVN. PETITIONER: PETITIONER/APPELLANT/ACCUSED

JOHN MATHEW @ BIJU, S/O.MATHAI,
CHAPPILLAYIL HOUSE, KAVUMBHAGAM MURI,
KAVUMBHAGAM VILLAGE, THIRUVALLA.

BY ADV. SRI.P.V.LONACHAN
SRI.P.G.PRESANNAKUMAR

RESPONDENTS: RESPONDENT/COMPLAINANT

STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 20/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR, J.

Crl. R.P. No. 2744 OF 2007 C

Dated this the 20th day of August, 2007

O R D E R

The revision petitioner, who was the accused in C.C.No.621/99 on the file of JFCM, Thiruvalla for offences punishable under sections 294(b) and 353 IPC, challenges the conviction entered and the sentence passed against him concurrently by the courts below for an offence punishable under section 353 IPC.

2. The case of the prosecution can be summarized as follows:-

On 25.5.99 at 11.30 a.m. the accused a taxi driver at Thiruvalla railway station consequent on the enmity towards PW1, a police constable, for directing the autorikshaw drivers at Thiruvalla railway station to maintain queue system, caught hold of the constable by the collar of his shirt and obstructed him from discharging his official duty. The accused had also used filthy and obscene words to PW1. Hence the offences.

3. On the side of the prosecution 5 witnesses were examined as PWs 1 to 5 and 3 documents were marked as Exts.P1 to P3.

4. The revision petitioner denied the incriminating circumstances in the evidence for the prosecution. He did not adduce any defence evidence.

5. The learned Magistrate after trial, as per judgment dated 28.9.04 acquitted the revision petitioner of the offence punishable under section 294(b) IPC but convicted him of the offence punishable under section 353 IPC and sentenced him to undergo simple imprisonment for one month and to pay a fine of Rs.1,000/- (Rupees one thousand only). On appeal preferred by the revision petitioner as Crl.Appeal No.316/04 on the file of the Additional Sessions Court, Fast Track-III, Pathanamthitta, the lower appellate court confirmed the conviction and sentence. Hence, this revision.

6. Eventhough the learned counsel for the revision petitioner assailed the conviction on various grounds, the conviction has been recorded by the courts below after a

careful evaluation of the oral and documentary evidence in the case. In the absence of any infirmity in the appreciation of evidence of the courts below, it is impermissible for this court, sitting in the rarefied revisional jurisdiction, to interfere with the said finding. The conviction recorded against the revision petitioner is accordingly confirmed.

7. What now survives for consideration is the question as to whether the sentence imposed on the revision petitioner is proper. The revision petitioner, who is a taxi car driver, was parking his taxi car in the railway station at Thiruvalla. Evidently feeling aggrieved by the direction of PW1 to the autorikshaw drivers to maintain the queue system and thereby thinking that the parking slot of the taxi car drivers was detrimentally affected, the accused had mounted an attack against PW1. It took place at the spur of the moment. Having regard to the facts and circumstances of the case, I do not think that the petitioner deserves penal servitude by way of incarceration and that interests of justice will be adequately met by imposing an appropriate fine. Accordingly, the

sentence imposed on the revision petitioner is set aside and instead, he is sentenced to pay a fine of Rs.4,000/- (Rupees four thousand only) for the conviction under section 353 IPC. The fine amount shall be deposited within one month from today, failing which he shall suffer simple imprisonment for one month by way of default sentence.

This revision is disposed of as above.

(V. RAMKUMAR, JUDGE)

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